

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANNABEL K. MELONGO)
Plaintiff,) Case No.13-CV-4924
v.) Honorable Judge John Z. Lee
ASA ROBERT PODLASEK; ASA JULIE)
GUNNIGLE; INVESTIGATOR KATE GARCIA)
(NÉE O'HARA) (STAR No. 423);)
INVESTIGATOR JAMES DILLON (STAR No.)
1068); INVESTIGATOR ANTONIO RUBINO)
(STAR No. 5043); INVESTIGATOR RICH)
LESIAK (STAR No. 5000); ASST. ATTY.)
GENERAL KYLE FRENCH; COOK COUNTY;)
SCHILLER PARK DET. WILLIAM MARTIN;)
VILLAGE OF SCHILLER PARK; CAROL)
SPIZZIRRI)
Defendants.)
)
)

**STIPULATION TO DISMISS CLAIMS AGAINST
DEFENDANT CAROL SPIZZIRRI WITH PREJUDICE**

Plaintiff Annabel K. Melongo, and all Defendants, by and through their attorneys, jointly move this Honorable Court to grant the following relief:

1. The parties to the above-captioned litigation reached a binding settlement agreement during a settlement conference before Magistrate Judge Sunil R. Harjani on August 15, 2019.
2. The parties agreed that “Plaintiff shall file stipulation to dismiss with prejudice and without costs or attorney’s fees as to a defendant only when full payment has been made for that defendant.” [Dkt. No. 363].

3. Full payment has been made by Defendant Carol Spizzirri.¹
4. Accordingly, the parties stipulate to the dismissal of all of Ms. Melongo's claims against Spizzirri, with prejudice and without costs, because the matter has been settled to the mutual satisfaction of those parties. *See* Fed. R. Civ. P. 41(a)(1)(ii) (allowing voluntary dismissal of an action without a court order by filing "a stipulation of dismissal signed by all parties who have appeared").
5. If the Court determines that dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(ii) is not appropriate because this stipulation does not dispose of the entire action, Ms. Melongo and the Cook County Defendants respectfully request that the Court enter an order pursuant to Fed. R. Civ. P. 21, which allows the Court to "on just terms, add or drop a party." *Compare Harvey Aluminum, Inc. v. Am. Cyanamid Co.*, 203 F.2d 105, 108 (2d Cir. 1953) ("Rule 41(a)(1) provides for the voluntary dismissal of an 'action' not a 'claim'; the word 'action' as used in the Rules denotes the entire controversy, whereas 'claim' refers to what has traditionally been termed 'cause of action.'"), *with Winterland Concessions Co. v. Smith*, 706 F.2d 793, 796 (7th Cir. 1983) (assuming, without deciding, that *Harvey*'s interpretation of "an action" was incorrect).
6. Ms. Melongo has not received full settlement payment from Defendant French as required under the settlement agreement. [Dkt. No. 363].

¹ Full payment has already been made by Defendants Village of Schiller Park and William Martin ("Schiller Park Defendants") and Defendants Robert Podlasek; Julie Gunnigle; Kate Garcia; James Dillon; Antonio Rubino; Rich Lesiak; and Cook County ("Cook County Defendants"). The Parties have filed stipulations to dismiss with respect to the Schiller Park Defendants and the Cook County Defendants, and the Court has entered orders dismissing the claims against them. [Dkt. Nos. 373, 374, 376, 377.]

WHEREFORE, Plaintiff Annabel K. Melongo and Defendants respectfully request this Honorable Court to enter an Order approving this stipulation and dismissing all claims by Ms. Melongo against Defendant Spizzirri with prejudice and without costs with each side to bear its own attorneys' fees.

Dated: January 8, 2020

For Plaintiff:

/s/ Julia K. Schwartz

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CERTIFICATE OF SERVICE

I, Julia K. Schwartz, hereby certify that I caused the foregoing to be served on all counsel of record to matter 13-CV-4924 via ECF Filing on January 8, 2020.

/s/ Julia K. Schwartz